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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,416	12/21/2001	Michael B. Neary	D/A0990	5250

25944 7590 03/07/2005

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EXAMINER

LE, AMANDA T

ART UNIT	PAPER NUMBER
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2634

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,416

Applicant(s)

NEARY, MICHAEL B.

Examiner

Amanda T Le

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/21/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Drawings

1. The drawings are objected to because all the blocks shown in Fig. 1 are not labeled descriptively. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On line 9, claim 1, on line 4, claim 6 and on line 8, claim 12 recite “said comparator equals said threshold voltage”. It is unclear if the output voltage or the input voltage of the comparator is referred to.

On line 2, claim 2 recites “repeating steps d through e nine for an interval of nine times”. It is unclear if the repeating is to be performed nine times or nine intervals.

On line 2, claim 3, on line 2, claim 9 and on line 3, claim 13 recite “said digital to analog values”. There is insufficient antecedent basis for the claimed limitation.

On line 3, claim 4 and on line 15, claim 12 recite “said digital to analog output”. There is insufficient antecedent basis for the claimed limitation.

On line 3, claim 5, on line 4, claim 11 and on line 3, claim 14 recite “said digital to analog comparator”. There is insufficient antecedent basis for the claimed limitation.

On line 3, claim 7 recites “said voltage output of said integrator”. There is insufficient antecedent basis for the claimed limitation.

On line 2, claim 8 recites “said digital to analog converter changed”. It is unclear if “the output of the digital to analog converter is changed” is meant.

On line 1, claim 11 recites “the phase locked loop circuit of claim 2”. There is insufficient antecedent basis for the claimed limitation.

On line 1, 13-16, claim 12 recites “the steps of” and “returning” and “calculating” steps. The claim is ambiguous since it recites both a system and a method in a single claim.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 6, 12 of U.S. Patent No. 6,529,055. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Regarding claims 1, 3-7, 9-14, the differences between the patent claims and the application claims would have been obvious to one of ordinary skill in the art at time of the invention. With respect to claims 1, 3, 4, 6, 7, 9, 10, 12-14, omission of the feature recited in the patent claims whose function is not needed in a particular system requirement would have been obvious to one of ordinary skill in the art at the time of the invention. As for claims 2, 5, 8 and 11, selecting a specific number of times for repeating steps d through e to meet particular design specifications would have been obvious to one of ordinary skill in the art at the time of the invention.

Allowable Subject Matter

6. Claims 1-14 would be allowable if rewritten or amended to overcome the rejection(s) set forth in this Office action.

7. The following is a statement of reasons for the indication of allowable subject matter: Prior art of record, taken individually or collectively, fails to disclose, in a manner as claimed, a method for measuring the response of a voltage controlled oscillator in a phase locked loop or a phase locked loop circuit wherein “the output of an integrator is set near a threshold voltage of a comparator; a digital to analog converter output is set to a minimum value; a counter M is continuously adjusted until the output voltage of the comparator equals said threshold voltage, wherein said digital to analog converter output voltage is changed in stepwise fashion to another output voltage in association with said counter M for as many intervals needed to meet precision requirements.”

Conclusion

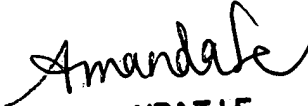
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown et al (US 6,826,246) discloses a phase locked loop with control voltage centering. Fernandez-Texon (US 6,545,545) discloses a voltage controlled oscillator frequency auto-calibrating system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda T Le whose telephone number is (571) 272-3052.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571) 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AMANDA T. LE
PRIMARY EXAMINER